

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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Louiscreas Akins,

Plaintiff,

v.

Alarmco; Thomas Wilson; Lynn Andrade; and  
 Ira Greenbolt,

Defendants.

Case No. 2:23-cv-01039-JAD-DJA

**Order**

Under 28 U.S.C. § 1915 Plaintiff is proceeding in this action *pro se* and has requested authority to proceed *in forma pauperis*. (ECF No. 4). Plaintiff also submitted complaints. (ECF Nos. 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6). Because the Court finds that Plaintiff's application is complete, it grants her application to proceed *in forma pauperis*. However, because the Court finds that Plaintiff is attempting to bring a class action, which she cannot do as a *pro se* party, it dismisses her complaints with leave to amend.

**I. *In forma pauperis* application.**

Plaintiff filed the affidavit required by § 1915(a). (ECF No. 4). Plaintiff has shown an inability to prepay fees and costs or give security for them. Accordingly, the request to proceed *in forma pauperis* will be granted under 28 U.S.C. § 1915(a). The Court will now review Plaintiff's complaint.

**II. Screening the complaint.**

Upon granting an application to proceed *in forma pauperis*, courts additionally screen the complaint under § 1915(e). Federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). When a court dismisses a complaint under § 1915, the plaintiff should be given leave to amend

1 the complaint with directions as to curing its deficiencies, unless it is clear from the face of the  
2 complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70  
3 F.3d 1103, 1106 (9th Cir. 1995).

4 Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a  
5 complaint for failure to state a claim upon which relief can be granted. Review under Rule  
6 12(b)(6) is essentially a ruling on a question of law. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d  
7 719, 723 (9th Cir. 2000). A properly pled complaint must provide a short and plain statement of  
8 the claim showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp.*  
9 *v. Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual  
10 allegations, it demands “more than labels and conclusions” or a “formulaic recitation of the  
11 elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v.*  
12 *Allain*, 478 U.S. 265, 286 (1986)). The court must accept as true all well-pled factual allegations  
13 contained in the complaint, but the same requirement does not apply to legal conclusions. *Iqbal*,  
14 556 U.S. at 679. Mere recitals of the elements of a cause of action, supported only by conclusory  
15 allegations, do not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not  
16 crossed the line from conceivable to plausible, the complaint should be dismissed. *Twombly*, 550  
17 U.S. at 570. Allegations of a *pro se* complaint are held to less stringent standards than formal  
18 pleadings drafted by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding  
19 that liberal construction of *pro se* pleadings is required after *Twombly* and *Iqbal*).

20 Federal courts are courts of limited jurisdiction and possess only that power authorized by  
21 the Constitution and statute. *See Rasul v. Bush*, 542 U.S. 466, 489 (2004). Under 28 U.S.C.  
22 § 1331, federal courts have original jurisdiction over “all civil actions arising under the  
23 Constitution, laws, or treaties of the United States.” Cases “arise under” federal law either when  
24 federal law creates the cause of action or where the vindication of a right under state law  
25 necessarily turns on the construction of federal law. *Republican Party of Guam v. Gutierrez*, 277  
26 F.3d 1086, 1088-89 (9th Cir. 2002). Whether federal-question jurisdiction exists is based on the  
27 “well-pleaded complaint rule,” which provides that “federal jurisdiction exists only when a  
28 federal question is presented on the face of the plaintiff’s properly pleaded complaint.”

1 *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Under 28 U.S.C. § 1332(a), federal  
 2 district courts have original jurisdiction over civil actions in diversity cases “where the matter in  
 3 controversy exceeds the sum or value of \$75,000” and where the matter is between “citizens of  
 4 different states.” Generally speaking, diversity jurisdiction exists only where there is “complete  
 5 diversity” among the parties; each of the plaintiffs must be a citizen of a different state than each  
 6 of the defendants. *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996).

7 **A. The Court dismisses Plaintiff’s complaint without prejudice.**

8 Plaintiff appears to be attempting to bring a class action. Her complaint consists of:  
 9 (1) two form complaints for breach of contract, neither of which is filled out (ECF Nos. 1-2, 1-4);  
 10 (2) a form civil complaint, which includes no facts and is not completely filled out (ECF No. 1-3);  
 11 (3) a complaint for employment discrimination, which is missing pages (ECF No. 1-5); and  
 12 (4) letters by other people discussing their negative experiences while working at Alarmco (ECF  
 13 Nos. 1-1, 1-6). The last letter—written by Plaintiff—lists all of the Alarmco employees and  
 14 indicates whether or not they are “interested,” apparently in engaging in the lawsuit. However, a  
 15 *pro se* plaintiff may not prosecute a class action. *See C.E. Pope Equity Trust v. U.S.*, 818 F.2d  
 16 696, 697 (9th Cir. 1987) (holding that a *pro se* litigant may not appear as an attorney for others).  
 17 Because Plaintiff could potentially amend her complaint to only assert claims on her behalf, the  
 18 Court dismisses the complaint without prejudice and with leave to amend.

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 20 **IT IS THEREFORE ORDERED** that Plaintiff’s application to proceed *in forma*  
 21 *pauperis* (ECF No. 4) is **granted**. Plaintiff shall not be required to pre-pay the filing fee.  
 22 Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of  
 23 any additional fees or costs or the giving of a security therefor. This order granting leave to  
 24 proceed *in forma pauperis* shall not extend to the issuance and/or service of subpoenas at  
 25 government expense.

26 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file Plaintiff’s  
 27 complaint (ECF Nos. 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6) on the docket but shall not issue summons.  
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1           **IT IS FURTHER ORDERED** that the complaint (ECF Nos. 1-1, 1-2, 1-3, 1-4, 1-5, and  
2 1-6) is **dismissed without prejudice** for failure to state a claim upon which relief can be granted,  
3 with leave to amend. Plaintiff will have until **November 29, 2023** to file an amended complaint  
4 if the noted deficiencies can be corrected. If Plaintiff chooses to amend the complaint, Plaintiff is  
5 informed that the Court cannot refer to a prior pleading (i.e., the original complaint) to make the  
6 amended complaint complete. This is because, generally, an amended complaint supersedes the  
7 original complaint. Local Rule 15-1(a) requires that an amended complaint be complete without  
8 reference to any prior pleading. Once a plaintiff files an amended complaint, the original  
9 complaint no longer serves any function in the case. Therefore, in an amended complaint, as in  
10 an original complaint, each claim and the involvement of each Defendant must be sufficiently  
11 alleged. **Failure to comply with this order will result in the recommended dismissal of this**  
12 **case.**

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14           DATED: October 30, 2023

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17 DANIEL J. ALBRECHTS  
18 UNITED STATES MAGISTRATE JUDGE  
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